



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,619	07/23/2003	Wayne Tjeerdsma	23-0390	8073

40158 7590 12/20/2004

LEONARD & PROEHL, PROF. L.L.C.
3500 SOUTH FIRST AVENUE CIRCLE
SUITE 250
SIOUX FALLS, SD 57105

EXAMINER

CHAN, KO HUNG

ART UNIT	PAPER NUMBER
----------	--------------

3632

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/625,619

Applicant(s)

TJEERDSMA, WAYNE

Examiner

Korie H. Chan

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/23/2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "second surface 39" on page 9, line 15, "a taper 27" on page 10, line 2, "a taper 37" on page 10, line 10, "angular notch 30" on page 10, line 25, " second (coupling hole) 55" on page 12, line 8, and "taper edge 57, 58" on page 13 lines 10-15.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: Page 10, line 19, a space is needed between word and number in "assembly20". Page 12, line 2, "second coupling hole 62" should be corrected to - -second coupling hole 55 - -. Page 12, line 3, "first tab portion 52" should be corrected to - - first tab portion 53 - -. Page 12, line 16, "the coupling means and the second coupling means" should be corrected to - - a first coupling means and a second coupling means - -. Page 12, line 28, "In an

Art Unit: 3632

embodiment " should be corrected to - - In figure 5 embodiment - -. Page 14, line 1,

"In an embodiment " should be corrected to - - In figure 7 embodiment - -.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 2-6 and 11-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 2 and 11 contains the language that the first horizontal support portion as well as the second horizontal portion includes a first or second surface defining a first or second horizontal plane. Such is described the same way in the specification (page 9, 1st paragraph). However, throughout the specification applicant has described the verticality and horizontality of the various parts of the invention in its already mounted to the wall orientation such as shown in figure 4. It would appear than the first surface (29, figure 1) of the first horizontal support portion (23) and the second surface (39, not shown) of the second horizontal support portion (33) would not define a horizontal plane as described and claimed but rather a vertical plane as shown in figure 4. The only generally horizontal plane would be defined by the horizontal portion (41,

Art Unit: 3632

figure 1) of the first jaw assembly (40, figure 4). Consequently, "horizontal plane" should be corrected to - - vertical plane - -.

Similarly, regarding claims 5 and 6, lines 5-6, applicant recites that the top edge of the first horizontal support portion having a notch. However, in the orientation as shown in figure 4, the "notch" - not labeled but located where jaw 40 is connected to the horizontal support portions - is located at a bottom edge of both of the horizontal support portions (23 and 33). Consequently, "top edge" should be corrected to - - bottom edge - - throughout claims 5 and 6.

Applicant is reminded that appropriate corrections are to be made in both the specification and the claims.

Furthermore, regarding the recitation the second jaw assembly strikes the vertical portion of the notch when pivoted to a predetermined position in claims 5 and 6, there is no mentioning the specification of the second jaw assembly (50) capable of striking the notch 30. Such recitation is not enabling.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 9, and 11-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 3, line 3, "facilitating coupled said" is vague and indefinite. It appears applicant means to say "facilitating coupling said". Similar problem is found in claim 11. Regarding claim 9, "a first portion of said angular notch has an axis" is vague and indefinite since it is not clear where such axis

Art Unit: 3632

lie relative to such first portion. Is it an axis that run through the first portion or an axis along a first portion. Claims 14-16, line 1, "said coupling means" is vague as to which coupling means. It appears applicant means to say - - said first coupling means - -. Further, regarding claim 26, line 1, "said retaining assembly" is incorrect and should be corrected to - -said width adjustment portion - -.

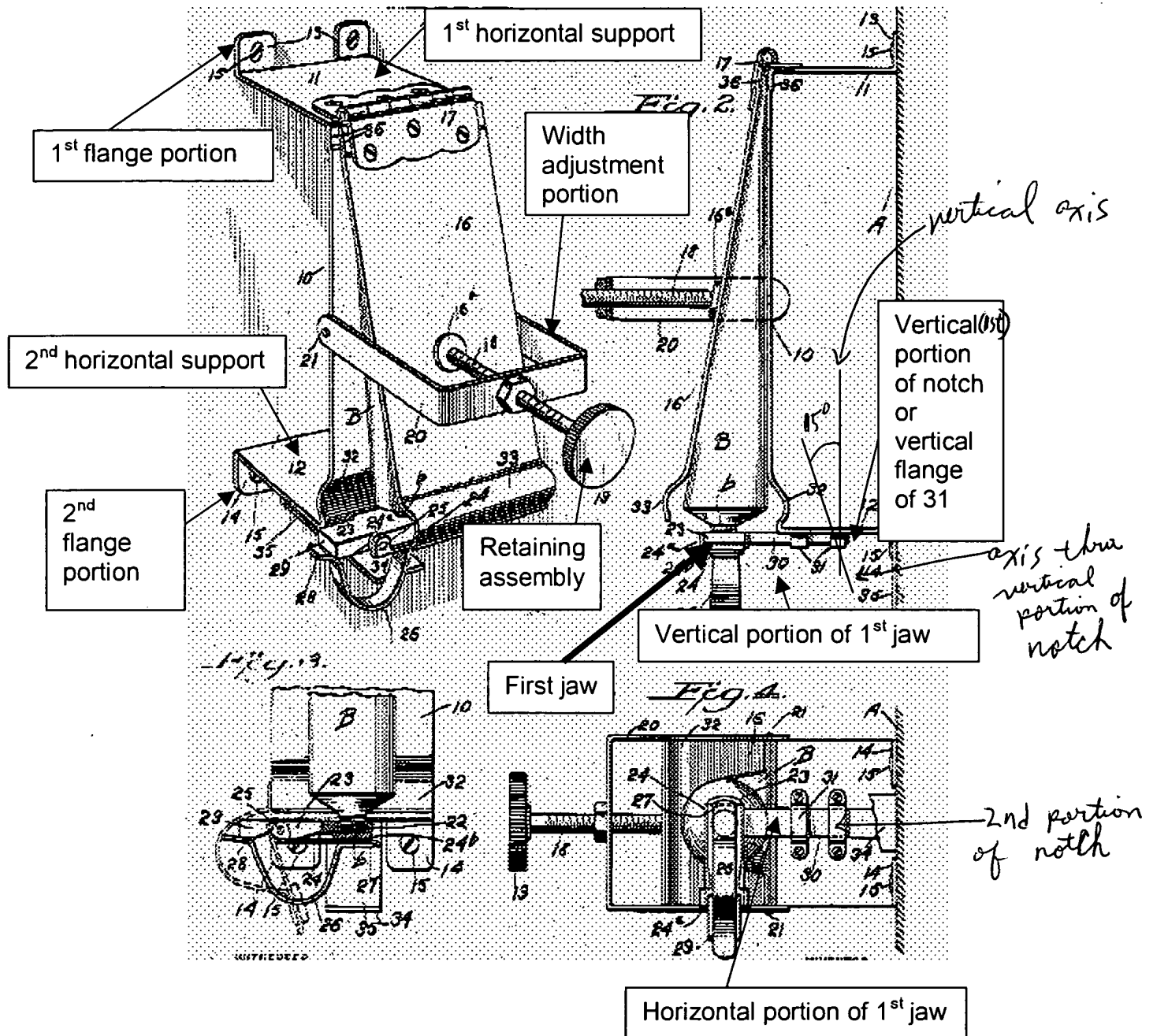
Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Roach (US patent no. 1,320,275). Roach discloses all the claimed features of applicant's invention as illustrated below. Furthermore, regarding claim 9, there is an axis that runs through the first portion (vertical portion of bracket 31) of the notch (formed by U-shaped bracket 31) that is 15 degrees from the vertical, and Roach shows a second portion of the notch at right angles to the first portion (see illustration below). Regarding claim 10, Roach shows the second jaw with coupling portion (17) and lever (16) extending downwardly, and a width adjustment portion (20) being slidably coupled to the lever (16) via retaining assembly (19).



Allowable Subject Matter

Claims 4-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st and 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 11-29 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 1st and 2nd paragraph, set forth in this Office action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining cited art of record demonstrate various clamps of general state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 703-305-8079. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3632

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Korie H. Chan
Primary Examiner
Art Unit 3632

khc
November 17, 2004